ENVIRONMENTAL PROTECTION AGENCY

EPA Position Statement on Environmental Management Systems and ISO 14001 and a Request for Comments on the Nature of the Data to be Collected from Environmental Management System/ISO 14001 Pilots

AGENCY: Environmental Protection Agency (EPA)

ACTION: Position Statement, Request for Comment on Information Gathering

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SUMMARY: This document communicates the EPA's position regarding Environmental Management Systems (EMSs), including those based on the International Organization for Standardization (ISO) 14001 standard. This document also describes the evaluative stage EPA is entering concerning EMSs. Further, it solicits comments on proposed categories of information to be collected from a variety of sources that will provide data for a public policy evaluation of EMSs.

FOR FURTHER INFORMATION CONTACT: Office of Reinvention -- EMS, Environmental Protection Agency, 401 M St., SW, mail code 1803, Washington, D.C. 20460, Telephone: (202)260-4261. E-mail: reinvention@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A diverse group of organizations, associations, private corporations and governments has been developing and implementing various EMS frameworks for the past thirty years. For example, the Chemical Manufacturers Association created its own framework called Responsible Care. In addition, the French, Irish, Dutch, and Spanish governments developed their own voluntary EMS standards.

The possibility that these diverse EMS frameworks could result in barriers to international trade led to a heightened interest in formulating an international voluntary standard for EMSs. To that end, the International Organization for Standardization (ISO), consisting of representatives from industry, government, non-governmental organizations (NGOs), and other entities, finalized the ISO 14001 EMS standard in September 1996. The intent of this standard is to produce a single framework for EMSs, which can accommodate varied applications all over the world. ISO 14001 is unique among the ISO 14000 standards because it can be objectively audited against for internal evaluation purposes or for purposes of self-declaration or third-party certification of the system.

EPA participation in the development of voluntary standards, including the ISO 14000 series of standards, is consistent with the goals reflected in section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA)(Pub. L. No. 104-113, s. 12(d), 15 U.S.C. 272 note). The

NTTAA requires federal agencies to use voluntary consensus standards in certain activities as a means of carrying out policy objectives or other activities determined by the agencies, unless the use of these standards would be inconsistent with applicable law or otherwise impractical. In addition, agencies must participate in the development of voluntary standards when such participation is in the public interest and is compatible with an agency's mission, authority, priority, and budget resources. Agency participation in the development of EMS voluntary standards does not necessarily connote EPA's agreement with, or endorsement of, such voluntary standards.

On December 16, 1997, EPA Deputy Administrator Fred Hansen asked EPA's newly chartered Office of Reinvention "to take lead responsibility for policy coordination of all EMS pilots, programs, and communications." (Full text of memo available at www.epa.gov/reinvent.) This notice initiates the Office of Reinvention's effort to ensure public input in that endeavor.

II. Statement

Implementation of an EMS has the potential to improve an organization's environmental performance and compliance with regulatory requirements. EPA supports and will help promote the development and use of EMSs, including those based on the ISO 14001 standard, that help an organization achieve its environmental obligations and broader environmental performance goals. In doing so, EPA will work closely with all key stakeholders, especially our partners in the States.

EPA encourages the use of EMSs that focus on improved environmental performance and compliance as well as source reduction (pollution prevention) and system performance. EPA supports efforts to develop quality data on the performance of any EMS to determine the extent to which the system can help bring about improvements in these areas. EPA also encourages organizations that develop EMSs to do so through an open and inclusive process with relevant stakeholders, and to maintain accountability for the performance outcomes of their EMSs through measurable objectives and targets. EPA encourages organizations to make information on the actual performance of their environmental management systems available to the public and governmental agencies. In addition, through initiatives such as Project XL and the Environmental Leadership Program, EPA is encouraging the testing of EMSs to achieve superior environmental performance. At this time, EPA is not basing any regulatory incentives solely on the use of EMSs, or certification to ISO 14001.

The Commission for Environmental Cooperation (CEC) Council issued on June 12, 1997 a resolution (#97-05) signed by EPA Deputy Administrator Fred Hansen on behalf of the United States concerning "future cooperation regarding environmental management systems and compliance." The CEC Council was formed pursuant to the North American Agreement on Environmental Cooperation, an environmental side agreement to the North American Free Trade Agreement, and is comprised of the environmental ministers for Canada, Mexico and the United States. The declarative and directive paragraphs of the Council's resolution #97-05 read as follows:

> THE COUNCIL ... DECLARES THAT:
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> Governments must retain the primary role in establishing environmental standards and verifying and

enforcing compliance with laws and regulations. Strong and effective governmental programs to enforce environmental laws and regulations are essential to ensure the protection of public health and the environment. Voluntary compliance programs and initiatives developed by governments can supplement strong and effective enforcement of environmental laws and regulations, can encourage mutual trust between regulated entities and government, and can facilitate the achievement of common environmental protection goals;

Private voluntary efforts, such as adoption of Environmental Management Systems (EMSs) such as those based on the International Organization on Standardization's Specification Standard 14001 (ISO 14001), may also foster improved environmental compliance and sound environmental management and performance. ISO 14001 is not, however, a performance standard. Adoption of an EMS pursuant to ISO 14001 does not constitute or guarantee compliance with legal requirements and will not in any way prevent the governments from taking enforcement actions where appropriate;

HEREBY DIRECTS:

The Working Group to explore 1) the relationship between the ISO 14000 series and other voluntary EMSs to government programs to enforce, verify and promote compliance with environmental laws and regulations, and 2) opportunities to exchange information and develop cooperative positions regarding the role and effect of EMSs on compliance and other environmental performance. The Working Group shall, no later than the 1998 Council Session, report its results to the Council and provide recommendations for future cooperative action in this area. The review and recommendations shall recognize and respect each Party's domestic requirements and sovereignty.

III. Evaluative Phase

EPA is working in partnership with a number of states to explore the utility of EMSs, especially those based substantially on ISO 14001, in public policy innovation. The goal of this partnership is to gather credible and compatible information of known quality adequate to address key public policy issues. The primary mechanism to generate this information will be pilot projects. Valid, compatible data from other sources will also be used whenever possible. To make efficient use of resources, and to ensure more robust research, EPA and states will work together on the creation of a common data base. The data base will be open and usable, while recognizing the need to insure the appropriate level of confidentiality for participants.

A group of federal and state officials involved in EMS pilot projects have been working together to set up a common national database of information gathered through the pilot projects. As part of that process, EPA and states are developing a series of data protocols which provide instructions and survey instruments to guide the actual collection of data for the data base. That document will be available at http://www.epa.gov/reinvent.

This notice will serve to solicit comments on the categories of information to be collected. From the following general categories of information (and possibly others), EPA and participating states will develop the above mentioned protocols.

The following categories are designed to provide a general idea as to the types of information that EPA believes should be collected to evaluate the effectiveness of EMSs from the perspective of

regulators. EPA further believes that collection of data in all categories will allow the fullest understanding and evaluation of the benefits of an EMS. The data categories which appear in this document were, to the extent possible, developed around the kinds of data we believe will or could be generated by an ISO 14001 EMS.

1. Environmental Performance

The impact a facility has on the environment is of paramount importance to regulators' assessment of EMSs. Thus, it is critical to measure any change in a facility's environmental performance that might be attributable to implementation of an EMS. Information would be collected as to the types, amounts, and properties of pollutants that are released to air, surface water, groundwater, or the land. Information on these pollutants would need to be normalized to a facilitiy's production levels. Information relating to recycling, reuse, and energy requirements could also be included. This inquiry could include both regulated and non-regulated pollutants.

2. Compliance

Implementation of an EMS has the potential to improve an organization's environmental compliance with regulatory requirements. The goal of collecting compliance information is to be able to measure the relationship between an EMS and compliance with local, state and federal environmental regulations. The types of data to be collected would include: information on whether the facility has a recent history of regulatory violations; the number, and seriousness of the violations; how quickly violations were discovered and corrected; and measurements of any changes in regulatory compliance status.

3. Pollution Prevention

Pollution prevention is a significant goal for both federal and state regulators. Therefore, better understanding the relationship between an organization's overall performance and the role of pollution prevention in the organization's EMS is important to regulators. In the federal context, pollution prevention is defined as "... any practice which -- (I) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream, or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and (ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants."[1] This definition will likely serve as a basis for helping an organization identify measures that it might have taken towards pollution prevention. Data collected would include a description of the type of pollution prevention and source reduction techniques used, including good operating practices, inventory control, spill and leak prevention, raw material modification/substitution, process modification, and product reformulation or redesign.

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[1]Pollution Prevention Act of 1990 § 6603, 42 U.S.C. § 13102 (1990).

4. Environmental Conditions

In order to understand the impact of an EMS on the environment, it is necessary to know something about the status of the ambient environment surrounding the facility prior to implementation of an EMS. An analysis of this nature will not only help regulators evaluate EMSs, it should also help facility managers prioritize their environmental aspects and shape the policies and objectives of their EMSs. Environmental conditions data will assist all parties in determining the sustainability of certain human activities from an environmental, economic and social perspective. It is difficult, of course, to collect accurate and comparable information about environmental conditions. The time and expense needed for a facility to collect and report such data could be prohibitive. Also, the selection of an appropriate geographic focus -- local, regional, or global -- will be challenging. One way to minimize this burden would be to utilize available governmental or other surveys (e.g., the 1990 U.S. Census, hydrogeologic reports). Nevertheless, to the degree that these obstacles can be overcome, the analysis conducted by federal and state regulators will benefit.

5. Costs/Benefits to Implementing Facilities

There has been much speculation and assertion about the relative costs and benefits associated with the implementation of an EMS. Data collected in this category should help provide answers to questions concerning possible net financial benefits that might accompany improved compliance and increased environmental performance, or that might result from being able to achieve compliance in less costly ways. The data may also shed light on the costs associated with higher levels of environmental performance . It is important to recognize some of the limitations inherent in traditional approaches to cost/benefit analysis. To address these limitations, organizations could be encouraged to identify intangible costs and benefits associated with the implementation of an EMS, even if they are difficult to quantify. Also, a list of usually "hidden" costs and benefits could be used to help organizations identify and understand costs and benefits that are traditionally overlooked.

6. Stakeholder Participation and Confidence

Community participation has become an increasingly important component of federal and state efforts to increase environmental performance and protect human health. Both federal and state regulators are interested in understanding the involvement of local communities and other stakeholders in the EMS process. Data could be collected to assess the amount and degree of stakeholder participation in both the development and implementation of an organization's EMS, or the effect that such participation has on the public credibility of the facility's EMS implementation.

More information concerning the pilot projects as well as other federal, state and international initiatives relating to EMSs and ISO 14000 can be found in the ISO 14000 Resource Directory (copies can be obtained through EPA's Pollution Prevention Information Clearinghouse at 202-260-1023, e-mail: ppic@epamail.epa.gov).

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Fred Hansen, Dated:
Deputy Administrator